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May 24, 2018

**Via ECF**

The Honorable Valerie E. Caproni  
United States Courthouse  
Southern District of New York  
40 Foley Square - Courtroom 443  
New York, NY 10007

Re: *Daily News Charities, Inc. v. USA Boxing, Metropolitan Association,*  
No. 17-cv-08733-VEC

Dear Judge Caproni:

We represent Plaintiff Daily News Charities, Inc. (“DNC” or “Plaintiff”) in the above-captioned matter. Pursuant to the Court’s January 29, 2018 Order (Dkt. 45), we write to advise the Court of the status of the case in advance of the June 1, 2018 pre-trial conference. Despite Plaintiff’s efforts to submit a joint letter with counsel for Defendant USA Boxing, Metropolitan Association (“Metro” or “Defendant”), we have not received any response from Defendant’s counsel and thus submit this letter unilaterally.

As represented by both parties at a settlement-conference follow-up call with Magistrate Judge Moses on May 7, 2018, the parties – following the initial settlement conference with Judge Moses and a further period of negotiation – reached an agreement to settle this matter. Specifically, during the May 7 call, Metro’s counsel advised Plaintiff’s counsel and Judge Moses that a signature of the written settlement agreement negotiated by the parties and already signed by Plaintiff would be delivered by Friday, May 11, 2018. Though it has not been delivered to date, in response to Plaintiff’s counsel’s repeated follow-ups, Metro’s counsel has continually confirmed, including as recently as May 22, 2018, that the settlement stands and obtaining a signature from his client is merely a formality.

With regard to discovery, set forth below is the requested information from the Court’s January 29, 2018 order:

**a. Statement of all existing deadlines, due dates, and/or cut-off dates:**

- May 31, 2018 – Completion of all fact discovery
- June 1, 2018 – Pretrial conference
- July 13, 2018 – Completion of all expert discovery

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**b. Brief description of any outstanding motions:**

Plaintiff's January 30, 2018 letter motion to hold Metro in contempt for violation of the Court's preliminary injunction (Dkt. #47) remains outstanding. In light of the parties' understanding that the matter is settled, there should be no need for a reply and hearing next Friday, June 1, 2018. However, in the event the matter is not considered settled, Plaintiff hereby requests an adjournment of the motion until June 22, 2018.

**c. Brief description of the status of discovery and of any additional discovery that needs to be completed:**

Plaintiff and Defendant have both served written discovery in this matter, and Plaintiff has served responses and objections to Defendant's requests. Defendant has not served responses or objections to Plaintiff's requests. Despite Plaintiff's requests on numerous occasions to schedule a meet-and-confer, Defendant has not meaningfully responded to these inquiries.

Although Plaintiff's counsel considers this matter settled and continues to rely in good faith on Defendant's counsel's repeated representations that Defendant will imminently produce a signed settlement agreement, should that not occur by May 29, 2018, the parties request a conference with the Court to address discovery.

**d. Statement describing the status of any settlement discussions and whether the parties would like a settlement conference:**

As set forth above, the parties have settled the matter in principle and Plaintiff has signed the written agreement. Plaintiff continues to merely await signature of the written settlement agreement by Defendant as a formality.

**e. Statement of the anticipated length of trial and whether the case is to be tried to a jury**

Because the parties have reached an agreement to settle the matter, no trial should be necessary in this matter. However, the parties estimate a trial would last no longer than 3 days. Plaintiff requests the case be tried to a jury.

**f. Statement of whether any party anticipates filing a motion for summary judgment or a motion to exclude expert testimony**

As the parties have reached a settlement agreement, the parties do not anticipate filing any further motions.

**g. Any other issue that the parties would like to address at the pretrial conference**

Once Defendant's signature on the settlement agreement has been obtained, the parties

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anticipate submitting a proposed order to the Court dismissing the case and providing for the Court's retention of jurisdiction over the parties and their respective counsel for the purpose of construing, enforcing, and administering the parties' settlement agreement.

**h. Any other information that the parties believe may assist the Court in advancing the case to settlement or trial.**

None.

Respectfully submitted.

A handwritten signature in black ink, appearing to read "Mark Lerner", with a stylized, flowing script.

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cc: Johnnie Woluewich (via ECF)